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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,030	07/17/2000	Melburn D. Bailey	192397US55X	8593

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

HWU, DAVIS D

ART UNIT	PAPER NUMBER
	3752

DATE MAILED: 09/10/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>
	09/618,030	BAILEY, MELBURN D.
	<b>Examiner</b>	<b>Art Unit</b>
	Davis Hwu	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 August 2003 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-5, 9-11, 13-20, 22 and 23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 11, 17 and 23 is/are allowed.

6)  Claim(s) 1-4, 9, 13-16, 18-20, and 22 is/are rejected.

7)  Claim(s) 5 and 10 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6)  Other: \_\_\_\_\_

## DETAILED ACTION

1. Applicant's amendment of August 8, 2003 is acknowledged and entered as paper number 18.
2. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 9, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Marantz.

The patent to Marantz shows a nozzle for a burner, the nozzle comprising:

- a body having a first end adapted to attach to the burner and a second end;
- a first tube (see Figure 6);
- a first tube 40 extending through the body, the first tube having a first inlet on the first end of the body and a first outlet on the second end of the body; and
- a second tube 32 extending through the body, the second tube having a second inlet on the first end of the body and a second outlet on the second end of the body;
- wherein the first tube and the second tube are separate along a substantial length of the body;

- wherein the first tube 40 includes a first linear section connected to the first inlet and a second linear section connected to the first outlet, the second linear section being provided at a predetermined angle in relation to the first linear section (see Figure 6);
- wherein the first tube maintains a constant cross-sectional area over entire length thereof (see Figure 6);
- a third tube 20 wherein the first, second, and third tubes are separate along an entire length of the body as recited in claims 3 and 4;
- wherein the second tube is linear along an entire length thereof as recited in claim 9.

5. Claims 13-16, 18-20, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Marantz.

The patent to Marantz shows a nozzle for a burner, the nozzle comprising:

- a body having a first end adapted to attach to the burner and a second end, the first end having a plurality of inlet holes and the second end having a plurality of outlet holes, each inlet hole being connected to a single outlet hole by a linear separate tube, wherein all of the separate tubes 40, 32, and 22 in the body extend along a common plane, since each of the separate tubes are annular and surround each other respectively, wherein separate tube 40 includes a first linear section and a second linear section being provided at a predetermined angle as recited in claim 15 and tube 32 is linear along an entire length as recited in claim 16.

*Allowable Subject Matter*

Art Unit: 3752

6. Claims 5 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 11, 17, and 23 are allowed over the prior art.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.



Davis Hwu